

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

JOHN J. TAURO,

Plaintiff,

vs.

CAPITAL ONE FINANCIAL CORP.;  
CAPITAL ONE NA; CAPITAL ONE  
BANK NA (USA)

Defendants.

Civil Action No. 15-1136

Hon. Joy Flowers Conti  
United States District Judge

Hon. Maureen P. Kelly  
United States Magistrate Judge

**DEFENDANT CAPITAL ONE (USA), N.A.'S AMENDED ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant Capital One Bank (USA), N.A. ("Capital One USA") improperly captioned as Capital One Bank NA (USA), by and through its undersigned counsel, files the within amended answer and affirmative defenses to Plaintiff's First Amended Complaint and states as follows:

**ANSWER**

**Jurisdiction and Venue**

1. The allegations of the first un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are admitted.

2. The allegations of the second un-numbered paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

**Parties**

3. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of the third un-numbered paragraph and the allegations are therefore denied.

4. Capital One USA denies the allegations of the fourth un-numbered paragraph.

5. The allegations of the fifth un-numbered paragraph are directed to defendants other than Capital One USA, therefore, no response is required. To the extent a response is required, Capital One USA admits the allegations.

6. Capital One USA admits the allegations of the sixth un-numbered paragraph.

### **Factual Allegations**

1. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and the allegations are therefore denied.

2. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and the allegations are therefore denied.

3. Capital One USA admits only that it received an Account Dispute Verification (“ACDV”) from Experian which purports to be a dispute from Plaintiff. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and the allegations are therefore denied.

4. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and the allegations are therefore denied.

5. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and the allegations are therefore denied.

6. Capital One USA admits only that it received an ACDV from TransUnion which purports to be a dispute from Plaintiff. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 and the allegations are therefore denied.

7. Capital One USA admits only that it conducted a reasonable investigation into the disputes it received from Experian and TransUnion and that it reported the results of its investigation accordingly. Capital One USA denies all remaining allegations of paragraph 7.

8. Capital One USA admits only that it was reporting on the account during the relevant time period. Capital One USA denies all remaining allegations of paragraph 8.

9. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and the allegations are therefore denied.

10. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 and the allegations are therefore denied.

11. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 and the allegations are therefore denied.

12. Capital One USA admits only that it acquired Plaintiff's account from HSBC. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12 and the allegations are therefore denied.

13. Capital One USA admits only that it conducted a reasonable investigation into the disputes it received from Experian and TransUnion and that it reported the results of its investigation accordingly. Capital One USA denies all remaining allegations of paragraph 13.

14. Capital One USA is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 14 and the allegations are therefore denied.

15. The allegations of this paragraph are directed to defendants other than Capital One USA, therefore, no response is required. To the extent a response is required, Capital One USA denies that the account was transferred to Capital One, N.A. Capital One USA is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 15 and the allegations are therefore denied.

16. Capital One USA admits only that it began reporting on the account after it acquired the account in or about May 2012. Capital One USA denies all remaining allegations of paragraph 15.

17. Capital One USA admits only that it acquired the account from HSBC. Capital One USA denies the remaining allegations of Paragraph 17.

### **COUNT I – FCRA**

18. Capital One USA incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

19. The allegations of Paragraph 19 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

### **COUNT II – BREACH OF DUTY TO CORRECT**

20. Capital One USA incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

21. The allegations of Paragraph 21 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

### **COUNT III – DUTY TO REPORT DEFAULT DATE**

22. Capital One USA incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

23. The allegations of Paragraph 23 are directed to defendants other than Capital One USA, therefore, no response is required. To the extent a response is required, the allegations are denied as conclusions of law.

**COUNT IV – DUTY TO REPORT DEFAULT DATE**

24. Capital One USA incorporates by reference its responses to the foregoing paragraphs as though the same were set forth herein.

25. The allegations of Paragraph 25 constitute conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

26. Capital One USA denies any allegations contained in the WHEREFORE clause following Paragraph 25.

**AFFIRMATIVE DEFENSES**

27. Plaintiff has failed to state a plausible claim upon which relief may be granted.

28. Plaintiff has failed to dispute any alleged failure to report the default date in order to trigger Capital One USA's obligation to investigate the dispute, and therefore, he cannot state a claim under 15 U.S.C. § 1681s-2(a)(5)(A) or 15 U.S.C. § 1681s-2(b).

29. Any damages suffered by Plaintiff were caused by third-parties over whom Capital One USA has no control.

30. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, estoppel and laches.

WHEREFORE, Defendant Capital One (USA), N.A. requests that the Court enter judgment in its favor and against Plaintiff, and award Defendant its costs of suit.

Dated: March 9, 2016

Respectfully submitted,

/s/ Shawna J. English

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*Attorneys for Defendant Capital One  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served this 9th day of March 2016 by the Court's CM/ECF Notification System upon the following:

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/s/ Shawna J. English